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REMARKS

This Amendment seeks to place this application in condition for allowance. The instant application is a continuation of Application Serial No. 10/212,527. Shortly after filing the instant application, Application Serial No. 10/212,527 issued as U.S. Patent 6,741,881. Applicant has amended the instant application to reflect the current state of the entire relationship to the prior related applications. (See, 35 USC §§ 120 and 121). It is believed that the instant application is entitled to a priority date of Application Serial No. 08/580,195, and priority is hereby claimed.

Moreover, certain claims have been amended to more fully protect the instant invention, to improve grammar, and to improve antecedent basis. In addition, Applicant has added five (5) new claims. The amended claims as well as the new claims are fully supported by the application as filed. No new matter has been added.

Finally, Applicant has addressed all of the issues raised in the outstanding Office Action.

Office Action of September 28, 2006

In the Office Action dated September 28, 2006 (hereinafter "the Office Action"), the Examiner rejected claims 25-39 as being unpatentable under the judicially created doctrine of obviousness-type double patenting in view of certain claims of certain U.S. Patents to Prince. Further, the specification was objected to on the basis of certain informalities. Moreover, the Examiner requested, under 37 CFR 1.105, that Applicant discloses "all co-pending applications and related patents" and "identify the specific claims of those applications and/or patents which may present double patenting issues with the instant claims."(Office Action, page 2).

Each of the rejections and objections are addressed separately below.

Objection to the Specification

As requested, the specification was amended to provide the current status of the continuation data. In short, the instant application has now been amended to reflect the fact that Application Serial No. 10/212,527 issued as U.S. Patent 6,741,881. In this way, the priority claim is more fully perfected. (35 USC §§ 120 and 121). No new matter has been added.

Double Patenting Rejections

All of the claims were rejected under the judicially created doctrine of obviousness-type double patenting. Applicant submits herewith a Terminal Disclaimer, executed by the attorney of record, to address certain of those rejections – namely, the rejections pertaining to U.S. Patent 6,741,881, 6,240,311, 5,792,056, 5,590,654, 6,230,041, 5,799,649 and 5,579,767. The Terminal Disclaimer is submitted to obviate such double patenting rejections. It is believed that the Terminal Disclaimer complies fully with the relevant parts of 37 CFR 1.321.

While the Terminal Disclaimer is submitted to address any potential obviousness-type double patenting, no inference or conclusion should be drawn that Applicant agrees that the claims of the instant application are obvious in view of the claims of U.S. Patents 6,230,041, 5,799,649 and 5,579,767. However, for the sake of expediting the prosecution, Applicant obviates such double patenting rejections, without more, via submission of the attached Terminal Disclaimer.

Applicant respectfully disagrees that the claims of the instant application are unpatentable based on obviousness-type double patenting in view of one or more of the claims of U.S. Patents 5,417,213, 5,553,619, 5,746,208, 5,762,065, 6,243,600 and

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6,278,892. In this regard, there is no teaching or suggestion in these patents that the use of a monitoring unit to:

- "an operator to visually observe a change in the concentration of the contrast agent in a region of interest " (Claim 25),
- "visually observe the arrival of the contrast agent in a region of interest" (Claim 31), and
- "visually displaying the series of images as a temporal pattern of the concentration of the contrast agent in the region of interest to allow an operator to (i) detect the arrival of the administered magnetic resonance contrast agent in the artery of the human patient, or (ii) detect the onset of the arterial phase of contrast enhancement in the artery of the human patient" (New Claim 42),

would have been obvious to one skilled in the art at the time of the invention. Indeed, none of these patents teach or suggest monitoring a region of interest -- whether using a monitoring unit or not.

Moreover, none of these patents teach or suggest "collecting image data of a magnetic resonance imaging sequence after the operator observes the change in the concentration of the contrast agent in the region of interest and in response to an input from the operator." (See, Claims 25, 31 and 42).[1]

[1] Notably, to the extent understood, Applicant disagrees with the Examiner's characterization of the claims of the instant application in relation to U.S. Patents 5,417,213, 5,553,619, 5,579,767, 5,746,208, 5,762,065, 5,799,649, 6,230,041, 6,243,600 and 6,278,892. No inference or conclusion should be drawn that Applicant agrees, in any way, with the Examiner's characterization of what would have been obvious. The Examiner appears to rely on her own personal knowledge to make such assertions. Accordingly, should the Examiner maintain her position, Applicant respectfully requests that she support her personal knowledge by affidavit according to 37 CFR §104(d)(2). For example, the Examiner has identified no evidence for the propositions of why the monitoring unit would have been an obvious means for determining a change in concentration of contrast agent in the region of interest. Indeed, such statements are bear assertions without support.

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In sum, Applicant respectfully requests the Examiner withdraw the double patent rejections pertaining to U.S. Patents 5,417,213, 5,553,619, 5,746,208, 5,762,065, 6,243,600 and 6,278,892.

Request for Information under 37 CFR §1.105

The Examiner requested, under 37 CFR 1.105, that Applicant discloses "all co-pending applications and related patents" and "identify the specific claims of those applications and/or patents which may present double patenting issues with the instant claims." In an effort to address the request, and based on the conditions, exceptions and representations below, Applicant has provided a list of the co-pending applications and related patents of the Applicant which may have a bearing on double patenting and/or obviousness type double patenting -- although most of the patents/applications do not.[2]

U.S. Patents

5,417,213	6,240,311
5,553,619	6,243,600
5,579,767	6,278,892
5,590,654	6,311,085
5,746,208	6,463,318
5,762,065	6,564,085
5,792,056	6,662,038
5,799,649	6,741,881
5,924,987	6,754,521

[2] Applicant respectfully submits that the request is unclear and improper. For example, the request is unclear because it is not known what is meant by "all co-pending applications and related patents, which disclose and claim very similar and/or identical subject matter." (Office Action, page 2). The request is improper because, for example, Applicant should not be expected to "identify the specific claims of those applications and/or patents which may present double patenting issues with the instant claims." Id.

Although Applicant has attempted to provide an exhaustive list, due to the concerns regarding clarity and subjective nature of the requested information, no inference or conclusion should be drawn that the list is exhaustive.

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6,167,293	6,879,853
6,230,041	6,889,072
	7,110,806

U.S. Patent Applications

10/808,693 (continuation of U.S. Patent 6,889,072)
11/003,101 (continuation of U.S. Patent 6,879,853)
11/493,055 (continuation of U.S. Patent 7,110,806)

Double Patenting

Applicant believes that there is no basis for a rejection under 35 USC § 101. In this regard, it is respectfully submitted that the claims of the instant application are not substantively the same as the claims of any U.S. Patents or Patent Applications identified above. (See, MPEP 804(II)(A); "'Same invention' means identical subject matter.").

As noted above, Applicant submits herewith a Terminal Disclaimer, executed by the attorney of record, directed to U.S. Patents 6,741,881, 6,240,311, 5,792,056, 5,590,654, 6,230,041, 5,799,649 and 5,579,767. Further, to address any *potential* concerns regarding nonstatutory double patenting with respect to U.S. Patents of the Applicant and to expedite the prosecution of the instant application, Applicant also submits herewith a Terminal Disclaimer, executed by the attorney of record, directed to U.S. Patents 6,754,521, 6,463,318, 6,662,038 and 7,110,806. The Terminal Disclaimer is submitted to obviate ay *potential* double patenting rejections. It is believed that the Terminal Disclaimer complies fully with the relevant parts of 37 CFR 1.321.[3]

[3] While the Terminal Disclaimer is submitted to address any potential obviousness-type double patenting, no inference or conclusion should be drawn that Applicant agrees that the claims of the instant application are obvious in view of the claims of U.S. Patents 5,579,767, 5,799,649, 6,230,041, 6,662,038 and 7,110,806. However, for the sake of expediting the prosecution, Applicant obviates such double patenting rejections, without more, via submission of the attached Terminal Disclaimer.

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Applicant believes that there is no basis for an obviousness type double patenting rejection regarding the other patents/applications identified above. In this regard, of the remaining U.S. patents and patent applications listed above, Applicant believes that, for at least the reasons set forth above, the claims of those patents and applications do not present a potential basis for an obviousness type double patenting rejection relative to the claims of the instant application.

Information Disclosure Statements

Applicant appreciates the Examiner's review of the art presented in the Information Disclosure Statements (IDS) submitted to date.

Applicant notes that the Examiner does not appear to have considered one (1) of the documents identified on certain Forms PTO-1449 because of the omission of the date of the documents. Accordingly, Applicant has submitted a Fifth Information Disclosure Statement, including a Form PTO-1449, which lists the one document, including the date of publication thereof. A copy of that Fifth Information Disclosure Statement is attached hereto. In addition, for the Examiner's convenience, a second copy of the document is included with the Fifth Information Disclosure Statement to facilitate review.

Applicant requests that the Examiner make her consideration of those documents formally of record with the next Action.

CONCLUSION

Applicant respectfully requests reconsideration of the instant application. Applicant submits that all of the pending claims present patentable subject matter. Moreover,

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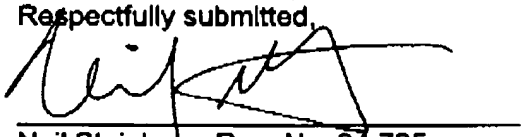
Applicant submits that the Terminal Disclaimer filed herewith obviate any potential double patenting rejections. Accordingly, allowance of the claims is respectfully requested.

Respectfully submitted,



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